

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
OFFICE OF PETITIONS

Serial No.: 10/774,790
Filing Date: 02/10/2004
First Inventor: Buchl, G.N.
Atty Docket: 8090

Art Unit: 3671
Conf. No.: 9062
Examiner: Beach, T.A.

PETITION TO REVIVE UNAVOIDABLY ABANDONED APPLICATION

Mail Stop Petition
Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

In response to the Notice of Abandonment mailed October 1, 2008, Applicant presents this petition to revive the above-referenced application pursuant to 37 C.F.R. § 1.137(a). The reason for abandonment in the Notice of Abandonment (attached as Exhibit A) was stated as follows:

This application is being held abandoned because of the failure to pay the 3 month extension fee that was due with applicant's [sic] response filed on 8/10/2007. In the letter sent to applicant on 9/19/2007 regarding the Non-Compliant Amendment it was noted that the 3 month extension fee had not been paid. Applicant then responded on 1/11/2008 and included a 3 month extension fee. However this extension fee was necessary for the 1/11/2008 paper to be timely in response to the one month time period set forth in the letter dated 9/19/2007. The 3 month extension fee which was due with applicant's [sic] response [sic] filed on 8/11/2007 was not submitted.

Essentially, Applicant was required to pay two (2) extension fees for two separate three-month extensions. In his last *pro se* correspondence with the Office, received on January 11, 2008, Applicant instructed the Office to "charge the fee for the three (3) month extension to" his credit

card. See attached Exhibit B, fee authorization and response to notice of noncompliant amendment dated January 11, 2008. Office personnel apparently interpreted Applicant's authorization as an authorization for only one (1) of the two (2) extension fees then owing.

Applicant's true intent for the fee authorization dated January 11, 2008, was to authorize payment of all fees due and owing for the two separate three-month extensions, as evidenced by the Declaration of Gregg N. Buchl, attached as Exhibit C. Applicant received no correspondence from the Office after the January 11, 2008 fee authorization and response to notice of noncompliant amendment that would have led Applicant to believe that fees remained due and owing. The next document appearing in the prosecution history file is the Notice of Abandonment mailed October 1, 2008. Accordingly, because Applicant had no notice that the fees owed had not been charged pursuant to Applicant's authorization, the entire delay in filing the required reply from the due date for the reply until the filing of the present petition was unavoidable. See attached Declaration of Gregg N. Buchl.

A response to the office action dated February 16, 2007 was filed on August 10, 2007. Such response resulted in a notice of non-compliant amendment mailed September 19, 2007. Applicant filed a response to such notice on January 11, 2008, which included a fee authorization for all fees owing on such date. Accordingly, no response is due at this time, as all necessary replies have been filed. As stated by Examiner Thomas B. Will in a telephonic interview with Applicant's counsel, the present petition revolves around a fee issue, only.

Applicant therefore respectfully requests that his application be revived due to an unavoidable abandonment. The appropriate fee for such petition is submitted herewith.

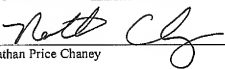
In the alternative, if the Office of Petitions determines that the delay was not unavoidable, Applicant respectfully requests that this petition be considered under 37 C.F.R. § 1.137(b), as the

entire delay in filing the required reply from the due date for the reply until the filing of the present petition was certainly unintentional. See attached Declaration of Gregg N. Buchl. To the extent that additional fees may be necessary to prosecute the present petition under 37 C.F.R. § 1.137(b), Applicant's counsel requests a telephone call to resolve such issue.

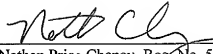
To the extent the Office of Petitions believes it would be helpful on other matters presented in this petition, counsel invites a telephone interview.

Respectfully submitted,

I hereby certify that this correspondence is
being filed electronically via the USPTO's
Registered EFS on 10-2-08.



Nathan Price Chaney



Nathan Price Chaney, Reg. No. 55,962
Mark Murphey Henry, Reg. No. 41,066
HENRY LAW FIRM
P.O. Box 1105
Fayetteville, AR 72702
(479) 695-1330 telephone
(479) 695-1332 facsimile
patents@henrylawfirm.net



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/774,790

02/10/2004

Gregg Nathan Buchl

9062

7590
ANDREW F. BUCHL
10 WILLIAM LANE
BELLA VISTA, AR 72714

10/01/2008

EXAMINER

BEACH, THOMAS A

ART UNIT

PAPER NUMBER

3671

MAIL DATE

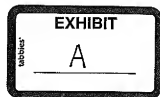
DELIVERY MODE

10/01/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



Notice of Abandonment**Application No.**

10/774,790

Applicant(s)

BUCHL, GREGG NATHAN

Examiner

THOMAS A. BEACH

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on _____.
(a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
(b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
(c) ☐ A reply was received on _____, but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
(d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
(a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
(b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
(c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
(a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
(b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:
see attached comments.

/Thomas A Beach/
Primary Examiner, Art Unit 3671

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

This application is being held abandoned because of the failure to pay the 3 month extension fee that was due with applicant's response filed on 8/10/2007. In the letter sent to applicant on 9/19/2007 regarding the Non-Compliant Amendment it was noted that the 3 month extension fee had not been paid. Applicant then responded on 1/11/2008 and included a 3 month extension fee. However this extension fee was necessary for the 1/11/2008 paper to be timely in response to the one month time period set forth in the letter dated 9/19/2007. The 3 month extension fee which was due with applicant's response filed on 8/11/2007 was not submitted.



IFW

January 7, 2008

United States Department of Commerce
U. S. Patent and Trademark Office
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Subject: Application No. 10/774,790
Applicant: Buchl, Gregg Nathan
Art Unit 3671

Dear Mr. Thomas B. Will, Examiner, and Jacquelyn L. Williams, LIE:

Compliance is here set forth, reference your communication mailed 09/19/2007, Confirmation No.: 9062, a copy of which is attached.

A new listing of claims is attached, to meet the requirements of 37 CFR 1.121. The identifier status of Claims 13 and 18 have been changed from NEW to ORIGINAL to meet this requirement..

Please charge the fee for the three (3) month extension to Master Card 5522-~~2000-1234-5678-9010~~, Valid Dates 11/07-11/10.

Thank you for the time and consideration on this patent application.

Sincerely yours,

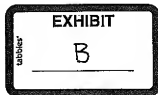
Andrew F. Buchl
10 William Lane
Bella Vista, AR 72714
Tel: 479-876-5992
Fax: 479-876-5185

Enc: Claims
Copy of an Office Communication

01/14/2008 HVUONG1 00000006 10774790

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525.00 OP



(055) What is claimed is:

(1) (Original) A manual electro-hydraulic selective depth control system for establishing a set position of a device above the ground as the device is moved across a surface, the selective depth control comprising:

- a. a toggle input device for specifying a plurality of position settings;
- b. a device position sensor for determining a measured device position; and
- c. a hydraulic position control system having a programmable ground zero position and a programmable maximum depth position for the device, the hydraulic position control system maintains a set position corresponding to the measured device position within a specified position within a specified position window around a set position programmed relative to the ground-zero and maximum-depth position;
- d. wherein the toggle input device comprises:
 - e. a working position that places the set position at a programmed position;
 - f. a shallow position that places the set position at a minimum deployed depth; and
 - g. a zero position that places the hydraulic position control system in a permanent de-energized mode.

(2) (Original) The manual electro-hydraulic selective depth control system according to claim 1 wherein the toggle input device further comprises a window size control input for specifying a size for the position window use by the hydraulic position control system.

(3) (Original) The manual electro-hydraulic selective depth control system according to claim 1, wherein the device position sensor is a potentiometer-based system.

(4) (Original) The manual electro-hydraulic selective depth control system according to claim 1, wherein the device position sensor is an ultra-sonic

transducer-based system.

(5) (Original) The manual electro-hydraulic selective depth control system according to

claim 1, wherein the toggle input device further comprises:

- a. a set switch for setting the programmed position used when the toggle is in its current position to a new position of the device; and
- b. an up/down rocker switch for adjusting the current position of the device.

(6) (Original) The manual electro-hydraulic selective depth control system according to claim 5, wherein a shallow position corresponds to a programmable position having a default position 1.5 inches deeper than the ground-zero position.

(7) (Original) The manual electro-hydraulic selective depth control system according to claim 5, wherein a shallow position is slaved to the working position in that a manual raise of the hydraulic position control system will move the set position from the programmed working position automatically to the shallow position.

(8) (Original) The manual electro-hydraulic depth control system according to claim 5, wherein the programmed working position corresponds to a programmable position having a default position 3.0 inches deeper than the ground-zero position.

(9) (Original) The manual electro-hydraulic selective depth control system according to claim 1, wherein the manual electro-hydraulic selective depth control system further comprises a device position display unit comprising a numeric LED display element.

(10) (Original) The manual electro-hydraulic selective depth control system according to claim 9, wherein the numeric LED display element show depth in inches with a decimal point to show 1/10 of an inch.

(11) (Original) The manual electro-hydraulic selective depth control system according to claim 1, wherein the hydraulic position control system further comprises a remote two-way, two position, normally open solenoid valve.

(12) (Canceled) A manual electro-hydraulic selective depth control system for establishing a set position of a device above the ground as the device is moved across a surface, the selective depth control system comprising:

- a. a processor based unit; and
- b. a remote control unit; and,
- c. a three position toggle input device.

(13) (Original) A manual electro-hydraulic selective depth control system for establishing a set position of a device above the ground as the device is moved across a surface, the selective depth control system having a hydraulic position control system enabling the slaving of a shallow position and a working position:

- a. an input device wherein the shallow position is slaved to the working position;
- b. an input device wherein the shallow position is not slaved to the working position; and
- c. a second input device wherein the working position and the shallow position are not slaved.

(14) (Original) The manual electro-hydraulic selective depth control system according to claim 13, wherein the shallow position is not slaved to the working position thereby having its own programmable depth, and in that a manual raise function of the hydraulic position control system will move the set position from

the shallow position to a full raise position.

(15) (Original) The manual electro-hydraulic selective depth control system according to claim 13, wherein the shallow position is slaved to the working position in that a manual raise of the hydraulic position control system will move the set position from the working position automatically to the shallow position.

(16) (Original) The manual electro-hydraulic selective depth control system according to claim 13, wherein the working position and the shallow position are not slaved and a manual lower function of the hydraulic position control system will move the set position from the full raise position to the working position, bypassing the shallow position.

(17) (Canceled) A manual electro-hydraulic selective depth control system for establishing a set position of a device above the ground as the device is moved across a surface, the selective depth control system comprising:

- a. an input device for specifying a plurality of position settings;
- b. a device position sensor;
- c. a processor control unit;
- d. a console control unit;
- e. a device position display unit; and
- f. one or more hydraulic manifolds having a solenoid valve.

(18) (Original) A manual electro-hydraulic selective depth control system for establishing a set position of a device above the ground as the device is moved across a surface, the selective depth control system comprising hydraulic manifolds of different valve combinations; namely, from a solenoid activated valve, a counter-balance valve, a pressure reducing and relieving valve, and a check valve:

- a. a hydraulic manifold wherein a solenoid activated valve is coupled to a counter-balance valve , and a pressure reducing and relieving valve, and a check valve;
- b. another hydraulic manifold wherein a solenoid activated valve is coupled to a counter-balance valve, and a check valve; and
- c. yet another hydraulic manifold wherein a solenoid activated valve is coupled to a counter-balance valve .

(19) (Original) The manual electro-hydraulic selective depth control system according to claim 18, wherein one hydraulic manifold incorporates a solenoid activated valve coupled to a counter-balance valve, a pressure reducing and relieving valve, and a check valve; wherein,

- a. the solenoid activated valve is configured to stop the flow of oil to the hydraulic position control system
- b. the counter-balance valve is configured to prevent air ingestion, to act as a holding valve , and to act as a relief valve;
- c. the pressure reducing and relieving valve is configured to provide an adjustable and controlled pressure; and
- d. the check valve is configured to operate in conjunction with the pressure reducing and relieving valve for holding the controlled pressure.

(20) (Original) The manual electro-hydraulic selective depth control system according to claim 18 wherein another hydraulic manifold incorporates a solenoid activated valve coupled to a counter-balance valve, and a check valve; wherein,

- a. the solenoid actiovted valve is configured to stop the flow of oil to the hydraulic position control system
- b. the counter-balance valve is configured to prevent air ingestion, to act as a holding valve, and to act as a relief valve; and
- c. the check valve is configured to operate in conjunction with the counter-balance valve for holding the pressure.

(21) (Original) The manual electro-hydraulic selective depth control system

according to claim 18 wherein yet another hydraulic manifold incorporates a solenoid activated valve coupled to a counter-balance valve; wherein,

- a. the solenoid activated valve is configured to stop the flow of oil to the hydraulic position control system; and
- b. the counter-balance valve is configured to prevent air ingestion, to act as a holding valve, and to act as a relief valve.

(22) (Cancel) The manual electro-hydraulic selective depth control system according to claim 16, wherein the hydraulic position control system comprise a parallel series cylinder set.

(23) (Canceled) The manual electro-hydraulic selective depth control system according to claim 16, wherein the hydraulic position control system comprise a series cylinder set.

(24) (Canceled) The manual electro-hydraulic selective depth control system according to claim 16, wherein the hydraulic position control system comprises a single cylinder.

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First Inventor: Buchl, G.N.

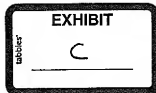
Examiner: Beach, T.A.

Atty Docket: 8090

DECLARATION OF GREGG N. BUCHL

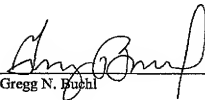
I, Gregg N. Buchl, state as follows:

1. I am the inventor of the above-referenced application. I am over eighteen (18) years of age and competent to make this declaration.
2. By letter and accompanying response dated January 8, 2008 and received by the Office on January 11, 2008, I intended to authorize payment for all outstanding fees owing to the Office for two separate three-month extension requests.
3. Office personnel appears to have interpreted my fee authorization received by the Office on January 11, 2008, as an authorization to pay only one of the two separate three-month extension fees then owing. Such was not my intention; rather, I sought to authorize payment of both 3-month extension fees.
4. I received no correspondence from the Office following my fee authorization and response to indicate that either item was deficient until I received the Notice of Abandonment dated October 1, 2008.
5. The entire delay in filing the required reply from the due date for the reply until the filing of the present petition was unavoidable.



6. The entire delay in filing the required reply from the due date for the reply until the filing of the present petition was also unintentional.

Under penalty of perjury, I swear or affirm that the foregoing is true and correct to the best of my knowledge and belief.


Gregg N. Buchl